



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF MANAGEMENT AND BUDGET
STATE PLANNING COORDINATION

September 20, 2006

Mr. Mark Ziegler
2607 Eastburn Center
Newark, De 19711

RE: PLUS review – PLUS 2006-08-14; Riveredge Park

Dear Mr. Ziegler:

Thank you for meeting with State agency planners on August 23, 2006 to discuss the proposed plans for the Riveredge Park project to be located on Lukens Drive in New Castle.

According to the information received, you are seeking approval for a charter school on 203 acres within the Riveredge Park Industrial Park in New Castle.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting. The developers will also need to comply with any Federal, State and local regulations regarding this property. We also note that as the City of New Castle is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the City.

Executive Summary

The following section includes some site specific highlights from the agency comments found in this letter. This summary is provided for your convenience and reference. The full text of this letter represents the official state response to this project. *Our office*

notes that the applicants are responsible for reading and responding to this letter and all comments contained within it in their entirety.

State Strategies/Project Location

- This project is located in Investment Level 1 according to the State Strategies for Policies and Spending. This site is also located in the City of New Castle. Investment Level 1 reflects areas that are already developed in an urban or suburban fashion, where infrastructure is existing or readily available, and where future redevelopment or infill projects are expected and encouraged by State policy. However, there are some issues regarding the City's comprehensive plan that should be resolved prior further development of this site as proposed.
- The City's certified comprehensive plan identifies the parcel for industrial use. This proposal appears to be inconsistent with the certified plan, unless schools are a permitted use in industrially zoned land. One can only assume that City of New Castle's Planning Commission intended this parcel to stay in industrial use due to the current land use designation.

Comprehensive Plans have the force of law in Delaware, and all development must occur in conformance with the plan. A comprehensive plan amendment may be required. We recommend that the City consult with their solicitor before proceeding any further with this development proposal. We also suggest that the applicants contact their legal counsel.

Street Design and Transportation

- The existing site entrance on Lukens Drive is offset from a cul-de-sac street in the park. While the offset is such that it would not pose a safety problem, it could pose an operational problem in that left turns out of the school entrance and the cul-de-sac street would overlap. If the school proposes to reconfigure their parking, it would be desirable to have them realign the entrance opposite the cul-de-sac street.

Natural and Cultural Resources

- The developer should maintain a 100-foot vegetated buffer from the wetlands. There should not be any buildings or associated infrastructure within the buffer.
- The proposed building is shown within the 100-Year floodplain. The applicant should check with City of New Castle officials regarding any special provisions

for development within the floodplain. This would typically require raising the first floor above a specified elevation.

- It is important that these wetlands be protected from run-off associated with this project by maintaining adequate upland buffers (at least 100 feet in width). In addition, tree removal should be minimized as much as possible. In order to reduce impacts to birds and other wildlife species that utilize trees for breeding, we recommend that no tree clearing occur between April 1st and July 31st.

The following are a complete list of comments received by State agencies:

Office of State Planning Coordination – Contact: Herb Inden 739-3090

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Division of Historical and Cultural Affairs – Contact: Alice Guerrant 739-5685

Nothing is known within this parcel. The area of the actual construction is about 650' south of a property shown on Beers Atlas of 1868, labeled J. M. Hurst/Bloomfield. The 1937 USDA aerial photograph shows no buildings in the project area, though there is one on the south side of Buttonwood Ave. This area along the Delaware River has good potential for both prehistoric-period and early historic-period archaeological sites.

Small, rural, family cemeteries often are found in relation to historic farm complexes, such as Bloomfield, usually a good distance behind or to the side of the house. The developer should be aware of Delaware's Unmarked Human Remains Act of 1987, which governs the discovery and disposition of such remains. The unexpected discovery of unmarked human remains during construction can result in significant delays while the process is carried out, and the developer may want to hire an archaeological consultant to check for the possibility of a cemetery here. The DHCA will be happy to discuss these issues with the developer; the contact person for this program is Faye Stocum, 302-736-7400.

If time permits, they would like the opportunity to look at the area prior to any ground-disturbing activities.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- 1) Because the proposed development is located on a City street, Lukens Drive, the entrance on that road is outside our jurisdiction.
- 2) The existing site entrance on Lukens Drive is offset from a cul-de-sac street in the park. While the offset is such that it would not pose a safety problem, it could pose an operational problem in that left turns out of the school entrance and the cul-de-sac street would overlap. If the school proposes to reconfigure their parking, it would be desirable to have them realign the entrance opposite the cul-de-sac street.

The Department of Natural Resources and Environmental Control – Contact: Kevin Coyle 739-9071

Soils

According to the New Castle County soil survey mapping, Matapeake, Othello-Fallsington Urban Land complex, and Tidal Marsh were mapped in the immediate vicinity of the proposed construction. Matapeake is a well-drained upland that, generally, has few limitations for development. Othello-Fallsington Urban Land complex is a poorly-drained wetland associated (hydric) soil that has severe limitations for development. Tidal Marsh is a very poorly-drained wetland associated (hydric) soil that has the highest severity level for development.

Wetlands

According to the Statewide Wetland Mapping Project (SWMP) maps, nontidal palustrine emergent wetlands and tidally-influenced estuarine emergent wetlands were mapped on the parcel. Most of the mapped wetlands on this parcel are tidally-influenced estuarine wetlands. Wetlands provide water quality benefits, attenuate flooding and provide important habitat for plants and wildlife. The developer should maintain a 100-foot vegetated buffer from the wetlands. There should not be any buildings or associated infrastructure within the buffer.

PLUS application materials indicate that wetlands have been delineated (presumably a field delineation) and have been verified by the Army Corps of Engineers through the Jurisdictional Determination process.

In addition, individual 404 permits and certain Nationwide Permits from the Army Corps of Engineers also require 401 Water Quality Certification from the DNREC Wetland and Subaqueous Land Section and Coastal Zone Federal Consistency Certification from the DNREC Division of Soil and Water Conservation, Delaware Coastal Programs Section. Each of these certifications represents a separate permitting process.

To find out more about permitting requirements, the applicant is encouraged to attend a Joint Permit Process Meeting. These meetings are held monthly and are attended by federal and state resource agencies responsible for wetland permitting. Contact Denise Rawding at (302) 739-9943 to schedule a meeting.

Impervious Cover

Based on a review of the PLUS application, the applicant projects surface imperviousness to reach 70 percent. It was unclear, however, how the applicant calculated this figure or whether the applicant intended to convey the figure that was actually disclosed. It was also unclear how the applicant calculated this parcel's total post-development surface imperviousness to be only 62,578 square feet, when both the combined existing and proposed building exceed 92,000 square feet. This also does not include surface imperviousness generated from the construction of roads, parking lots and sidewalks. It is strongly recommended that the applicant recalculate this parcel's projected surface imperviousness to include all forms of constructed imperviousness.

Studies have shown that once a watershed exceeds a threshold of 10 percent imperviousness, water and habitat quality irreversibly decline. Since the amount of imperviousness generated by this project will likely exceed the desirable watershed threshold of 10 percent, the applicant is strongly advised to pursue best management

practices (BMPs) that mitigate or reduce some of the most likely adverse impacts. Reducing the amount of surface imperviousness through the use of pervious paving materials (“pervious pavers”) in lieu of asphalt or concrete in conjunction with an increase in forest cover via preservation or additional tree plantings are examples of practical BMPs that could easily be implemented to reduce surface imperviousness.

TMDLs

A Total Maximum Daily Load (TMDL) is the maximum level of pollution for which a water quality limited water body can assimilate without compromising use and recreational goals such as swimming, fishing, drinking water, and shell fish harvesting. Although TMDL development has not been scheduled for this watershed to date, it is still recommended that the applicant employ best available technologies (BATs) and/or best management practices (BMPs) as “methodological mitigative strategies” to reduce degradative impacts that might be associated with this project.

Reducing imperviousness, planting/preservation of trees, and maintaining 100-foot minimum upland buffers from wetlands and streams are some examples of proactive mitigative strategies that will help reduce excessive nutrient runoff from this development and its impacts on water quality, while ensuring State compliance with potential Federal TMDL regulatory requirements.

Water Supply

The project information sheets state that the City of New Castle will be used to provide water for the proposed project. Our records indicate that the project is located within the public water service area granted to Artesian Water Company under Certificate of Public Convenience and Necessity number 85-WS-03. It is recommended that the developer contact Artesian Water Company to determine the availability of public water. Any questions concerning CPCNs should be directed to the Public Service Commission at 302-739-4247. The Division of Water Resources will consider applications for the construction of on-site wells provided the wells can be constructed and located in compliance with all requirements of the Regulations Governing the Construction and Use of Wells. A well construction permit must be obtained prior to constructing any well(s).

Should dewatering points be needed during any phase of construction, a dewatering well construction permit must be obtained from the Water Supply Section prior to construction of the well points. In addition, a water allocation permit will be needed if the pumping rate will exceed 50,000 gallons per day at any time during operation.

All well permit applications must be prepared and signed by licensed water well contractors, and only licensed well drillers may construct the wells. Please factor in the necessary time for processing the well permit applications into the construction schedule. Dewatering well permit applications typically take approximately four weeks to process, which allows the necessary time for technical review and advertising.

Should you have any questions concerning these comments, please contact Rick Rios at 302-739-9944.

Sediment and Erosion Control/Stormwater Management

A detailed sediment and stormwater plan will be required prior to any land disturbing activity taking place on the site. The plan review and approval as well as construction inspection will be coordinated through the New Castle Conservation District. Contact the New Castle Conservation District at (302) 832-3100, Ext. 3, for details regarding submittal requirements and fees.

A Notice of Intent (NOI) for Stormwater Discharges Associated with Construction Activity must be submitted to the Division of Soil and Water Conservation along with the \$195 NOI fee prior to plan approval.

The location of this project may provide for a waiver from stormwater quantity management if the runoff can be conveyed to tidal waters in a non-erosive condition.

Verification should be provided that the project area was considered during the design of the existing stormwater management basin.

The proposed building is shown within the 100-Year floodplain. The applicant should check with City of New Castle officials regarding any special provisions for development within the floodplain. This would typically require raising the first floor above a specified elevation.

It is strongly recommended that you contact the reviewing agency to schedule a preliminary meeting to discuss the sediment and erosion control and stormwater management components of the plan. The site topography, soils mapping, pre- and post-development runoff, and proposed method(s) and location(s) of stormwater management should be brought to the meeting for discussion.

Rare Species and Freshwater Wetlands

There are several rare plant species associated with the wetlands on this parcel. A large area considered to be of high quality (despite presence of *Phragmites australis*) is located on the northern half of the parcel, which is not within the current project area. There are also several rare plant species associated with freshwater tidal marsh found along the Delaware River shoreline immediately adjacent to the proposed buildings. It is important that these wetlands be protected from run-off associated with this project by maintaining adequate upland buffers (at least 100 feet in width). In addition, tree removal should be minimized as much as possible. In order to reduce impacts to birds and other wildlife species that utilize trees for breeding, we recommend that no tree clearing occur between April 1st and July 31st.

State Resource Area

The marsh lands to the north of the proposed development is a State Resource Area (SRA).

Underground Storage Tanks

There is one inactive LUST site(s) located near the proposed project:

SPI Polysols, Inc., Facility # 3-001513, Project # N9512293

No environmental impact is expected from the above inactive/active LUST site(s). However, should any underground storage tank or petroleum contaminated soil be discovered during construction, the Tank Management Branch must be notified as soon as possible. It is not anticipated that any construction specifications would need to be changed due to petroleum contamination. However, should any unanticipated contamination be encountered and PVC pipe is being utilized, it will need to be changed to ductile steel with nitrile rubber gaskets in the contaminated areas.

Site Investigation and Restoration

2 SIRB sites were found within a 1/2-mile radius of the proposed site:

The Chicago Bridge and Iron-OU2 (DE-1038) is located south of the proposed site. A remedial investigation was conducted in 1996. PCE was found in groundwater. Groundwater tends to flow towards the north west; however, groundwater flow is not always predictable. DNREC recommends public water use.

ICI Americas Atlas Point site (DE-0049) has 2 sludge clarifying lagoons and an abandoned waste site. Inorganic and organic contaminants were found in soil and water samples. Remedial actions are currently been implemented. DNREC recommends the use of public water.

Department of Agriculture - Contact: Milton Melendez 698-4500

The Delaware Department of Agriculture has no objections to the proposed application.

Right Tree for the Right Place

The Delaware Department of Agriculture Forest Service encourages the developer to use the “Right Tree for the Right Place” for any design considerations. This concept allows for the proper placement of trees to increase property values in upwards of 25% of appraised value and will reduce heating and cooling costs on average by 20 to 35 dollars per month. In addition, a landscape design that encompasses this approach will avoid future maintenance cost to the property owner and ensure a lasting forest resource.

Native Landscapes

The Delaware Department of Agriculture and the Delaware Forest Service encourages the developer to use native trees and shrubs to buffer the property from the adjacent land-use activities near this site. A properly designed forested buffer can create wildlife habitat corridors and improve air quality to the area by removing six to eight tons of carbon dioxide annually and will clean our rivers and creeks of storm-water run-off pollutants. To learn more about acceptable native trees and how to avoid plants considered invasive to our local landscapes, please contact the Delaware Department of Agriculture Plant Industry Section at (302) 698-4500.

Tree Mitigation

The Delaware Forest Service encourages the developer to implement a tree mitigation program to replace trees at a 1:1 ratio within the site and throughout the community. This will help to meet the community’s forestry goals and objectives and reduce the environmental impacts to the surrounding natural resources. To learn more, please contact our offices at (302) 349-5754.

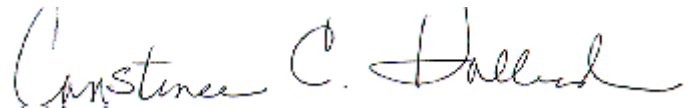
Public Service Commission - Contact: Andrea Maucher 739-4247

Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines. Contact: Malak Michael at (302) 739-4247.

Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in blue ink that reads "Constance C. Holland". The signature is fluid and cursive, with the first name "Constance" being the most prominent part.

Constance C. Holland, AICP
Director

CC: City of New Castle